

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

MICHAEL J. HALLMARK,

Plaintiff,

~ *versus* ~

HONDA OF AMERICA MFG., INC.,

Defendant.

Case No. 1:23-cv-0981

**Before the Honorable
District Judge Lawrence J. Vilardo**

AFFIDAVIT IN SUPPORT OF REQUEST FOR ENTRY OF DEFAULT

The Undersigned, Baruch S. Gottesman, Esq., Counsel to the Plaintiff being duly affirmed, respectfully states the following under penalties of perjury in support of the accompanying Request for Entry of a Default against the Defendant Honda of America Mfg., Inc.:

1. I am Counsel to the Plaintiff in the above-entitled action and I am familiar with the file, records and pleadings in this matter.

2. This Affidavit will review the procedural background to this matter and why a Certificate of Default should issue with respect to non-appearing Defendant Honda of America Mfg., Inc.

3. The Complaint was docketed on September 18, 2023, and that same date Summons were issued, *See* ECF 1, and unnumbered Minute Entry dated Sept. 18, 2023.

4. The Amended Complaint (the operative pleading) was docketed on September 20, 2023, *See* ECF 2.

5. The Proof of Service on Defendant Honda of America Mfg., Inc. was returned executed on September 27, 2023, *See* ECF 3 at p.2.

6. The Answer was due by Honda of America Mfg., Inc. on or before October 12, 2023.

7. On October 12, 2023, the Plaintiff (acting pro se) Stipulated to the Dismissal of other Parties (*but not* to the Dismissal of Honda of America Mfg., Inc.), See ECF 4.

8. For reasons that are not entirely clear, the Docket reflects that the Clerk was directed to close the case file entirely, *See* ECF 6. Meaning the case was mistakenly noted as “closed” as against ALL Defendants.

9. The Undersigned Counsel then appeared for the Defendant and moved to restore the case to the Active Case Calendar. The Plaintiff (now represented by Counsel) argued that while the case was dismissed against *some* of the Defendants, it was not dismissed against *all* Defendants. As is relevant here, the Plaintiff did not dismiss the case against Honda of America Mfg., Inc., *See* ECF 8.

10. Motion practice on that request followed.

11. By Decision and Order docketed December 16, 2024, the matter was restored to the trial calendar, *See* ECF 10, including as against Honda of America Mfg., Inc.

12. The Plaintiff have since stipulated with some of the remaining Defendants to dismiss the case against those other Defendants.

13. That has left Honda of America Mfg., Inc. as the sole remaining Defendant.

14. Defendant Honda of America Mfg., Inc. have elected to not appear, to not plead and to otherwise not defend this case within the time allowed. They have also not appeared at case management conferences or provided Rule 26 Discovery disclosures or otherwise participated in this case.

15. Therefore, Honda of America Mfg., Inc. is now in Default.

16. For these reasons the Plaintiff respectfully requests that the Clerk of the Court enter a Default as against the Defendant Honda of America Mfg., Inc.

Dated: **July 27, 2025**

RESPECTFULLY SUBMITTED,

By:


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CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2025, simultaneous with the filing of this Submission, a copy of this submission was served upon counsel for all Appearing Parties using the court's CM/ECF system which will provide a notice of electronic filing to all Counsel of Record by electronic means through the ECF/PACER system: